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MEMO ENDORSED

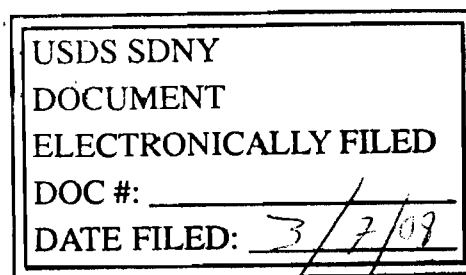
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March 4, 2008

Hon. Lewis A. Kaplan
U. S. District Judge, S.D.N.Y.
United States District Court
500 Pearl Street
New York, New York 10007

Re: United States v. Otis Austin
05 Cr. 1157(LAK)



Dear Judge Sand:

On February 29, 2008 I was appointed under the Criminal Justice Act to represent the defendant Otis Austin in the above-captioned case. Mr. Austin has been charged with, among other things, murder in the furtherance of a conspiracy to commit robbery. (18 U.S.C. §§924(j) and (2)). This charge makes Mr. Austin eligible to receive the death penalty if convicted. Title 18 U.S.C. § 3005 requires that the Court promptly appoint two-counsel in all potential capital cases, at least one of whom shall be learned in the law applicable to capital cases. By this letter, I hereby respectfully request that the Court appoint co-counsel to assist me in representing Mr. Austin. Prompt appointment of a second counsel is of great importance so that counsel can make the best possible presentation to the Government in an attempt to convince the Government not to seek the death penalty. I have spoken to Stephanie Carvlin, Esq., a member of this district's CJA panel, and of counsel to my law office and she has advised me that she is available to work with me on this case if the Court agrees to appoint her. I have worked with Ms. Carvlin on other capital cases which resulted in non-death designations. She has extraordinary research and writing skills that are particularly helpful in a case of this nature. We have tried numerous cases together over the years and have managed to develop both a professional and respectful relationship.

As you know, in death eligible cases, the prosecutor will recommend, to a local committee, whether or not to proceed as a death penalty case. In making it's determination the committee will examine all relevant information about the crime and the circumstances under

which it occurred, taking into consideration any mitigating circumstances relevant to the conduct of the accused. Then the committee will make a recommendation to the Attorney General of the United States. Mitigation submissions by the defendant will play a substantial role in the final recommendations made by the U. S. Attorney's Office to Washington D.C.

Carmeta Albarus-Lindo, CSW, of CVA Consulting Services, Inc., provides this service at a cost of \$100.00 per hour, plus expenses. Invoices are billed on-a-monthly bases. I have worked with Ms. Albarus-Lindo in the past and have always been pleased with her investigation techniques and her reports. I would suggest initial approval of 100 hours. If additional time is needed I will submit another request summarizing why additional time is needed.

I have also been in touch with an investigator who specializes in capital cases. His name is Joseph Dwyer and his hourly fee is \$95.00. Because most of the conduct alleged in the indictment took place in New York and because the alleged conduct in the indictment is over three years old it will take considerable effort to identify, locate and interview potential witnesses. I am, therefore, requesting initial approval of 100 hours of investigation time. Obviously, if the time is not necessary it will not be consumed or, in the alternative if additional time is needed I will make a subsequent request stating the reasons for additional time.

As Your Honor also knows, representing a defendant who has been charged with a capital offense presents unique challenges to counsel. It is my understanding that, in recognition of that fact, it is the prevailing practice in federal capital prosecutions, both in this district and throughout the country, for court-appointed counsel to be compensated at the death penalty hourly rate of \$170 per hour, as permitted under 21 U.S.C. § 848(q)(10)(A). It is also respectfully requested that Your Honor authorize the submission of interim vouchers on a periodic basis.

Should you approve my requests, I have enclosed appropriate vouchers or orders for your signature.

Thank you in advance for your consideration of these matters. I also request that this letter with all enclosures be filed under seal and not published on ECF.

Respectfully submitted,

William D. Haber

APH:fms
Encl: (5)

MEMO ENDORSED

approved
W
2/5/08
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK